

REFERENCE TITLE: state board of investment; membership

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1150

Introduced by
Senator Tibshraeny

AN ACT

AMENDING SECTIONS 35-311, 35-313 AND 35-317, ARIZONA REVISED STATUTES;
RELATING TO THE STATE BOARD OF INVESTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 35-311, Arizona Revised Statutes, is amended to
3 read:

4 35-311. State board of investment: membership: powers and
5 duties

6 A. A state board of investment is established consisting of the state
7 treasurer, the director of the department of administration, the
8 superintendent of financial institutions and ~~two individuals~~ THE FOLLOWING
9 THREE MEMBERS WHO ARE appointed by the state treasurer: ,

10 1. One ~~of whom shall have~~ MEMBER WHO HAS verifiable expertise in
11 investment management. ~~and~~

12 2. One ~~of whom shall represent~~ MEMBER WHO REPRESENTS a public entity
13 with current deposits in a local government investment pool.

14 3. ONE MEMBER WHO HAS VERIFIABLE FINANCIAL EXPERTISE AND EXPERIENCE
15 WITH ENDOWMENT BENEFICIARIES.

16 B. The state treasurer shall be chairman of the board. The board
17 shall keep an accurate record of its proceedings. A certified copy of the
18 record is prima facie evidence of the matters appearing in the record in any
19 court. A meeting of the board may be called at any time by the chairman or a
20 majority of the board members.

21 B. C. The state board of investment shall:

22 1. Hold regular monthly meetings.

23 2. Review investments of treasury monies.

24 3. Serve as trustees of the permanent state land funds and provide
25 management of the assets of the funds consistent with the requirements of
26 article X, section 7, Constitution of Arizona.

27 4. Serve as trustees of any endowments established pursuant to section
28 35-314.03.

29 C. D. The state treasurer shall furnish to the board of investment at
30 its regular monthly meeting a report of the performance of current
31 investments and a report of the current investments as of the close of
32 business of the preceding month. The state treasurer shall make these
33 reports available for inspection by the public during normal working hours at
34 the office of the state treasurer for a period of time of not less than two
35 years after the date of the report.

36 D. E. The board of investment may order the state treasurer to sell
37 any of the securities, and any order shall specifically describe the
38 securities and fix the time period during which they are to be sold.
39 Securities so ordered to be sold shall be sold for cash by the state
40 treasurer at the current market price. The state treasurer and the members
41 of the board are not accountable for any loss occasioned by sales of
42 securities at prices lower than their book value. Any loss shall be charged
43 against earnings received from interest or capital gains on the applicable
44 treasury monies.

1 E. F. The board may establish standards in addition to those
2 established by section 35-317, subsection A for the qualification of agents
3 acting pursuant to section 35-317, subsection B.

4 Sec. 2. Section 35-313, Arizona Revised Statutes, is amended to read:

5 35-313. Investment of trust and treasury monies: loan of
6 securities

7 A. The state treasurer shall invest and reinvest trust and treasury
8 monies in any of the following items:

9 1. Obligations issued or guaranteed by the United States or any of its
10 agencies, sponsored agencies, corporations, sponsored corporations or
11 instrumentalities.

12 2. Collateralized repurchase agreements purchased from securities
13 dealers that make markets in those securities listed in paragraph 1 of this
14 subsection.

15 3. Bonds or other evidences of indebtedness of this state or any of
16 the counties or incorporated cities, towns or duly organized school
17 districts.

18 4. Commercial paper whose issuer is rated in one of the two highest
19 rating categories for short-term obligations by any two nationally recognized
20 statistical rating organizations.

21 5. Bills of exchange or time drafts known as bankers acceptances ~~which~~
22 ~~THAT~~ are drawn on and accepted by a commercial bank.

23 6. Negotiable certificates of deposit issued by a nationally or state
24 chartered bank or savings and loan association.

25 7. Bonds, debentures, notes or other evidences of indebtedness ~~which~~
26 ~~THAT~~ are issued by entities organized and doing business in the United States
27 and ~~which~~ ~~THAT~~ carry as a minimum one of the Baa ratings of Moody's investors
28 service or one of the BBB ratings of Standard and Poor's rating service or
29 their successors.

30 8. Securities of or any other interests in any open-end or closed-end
31 management type investment company or investment trust registered under the
32 investment company act of 1940 (54 Stat. 789; 15 United States Code sections
33 80a-1 through 80a-64), as amended, if both of the following apply:

34 (a) The investment company or investment trust takes delivery of the
35 collateral for any repurchase agreement either directly or through an
36 authorized custodian.

37 (b) The investment policy of the investment company or investment
38 trust includes seeking to maintain a constant share price.

39 9. Certificates of deferred property taxes as provided by section
40 42-17309.

41 10. Treasurer's warrant notes issued pursuant to section 35-185.01 or
42 registered warrants of a county issued pursuant to section 11-605, if the
43 yield is equal to or greater than yields on eligible investment instruments
44 of comparable maturities.

1 11. Shares in the treasurer's local government investment pools
2 provided that investment policies of the pool seek to maintain a constant
3 share price.

4 12. Subject to subsection D of this section, state transportation board
5 funding obligations delivered pursuant to section 28-7678.

6 13. Certificates of deposit purchased in accordance with the procedures
7 prescribed in section 35-323.01.

8 B. In case of default or failure to honor a county treasurer's
9 warrant, the state treasurer may withhold the first state shared revenues
10 that would otherwise be distributed to the defaulting county in the amount
11 necessary to honor the note including accrued interest to and beyond the date
12 of default.

13 C. The state treasurer may contract to loan securities owned by the
14 trust funds and operating monies deposited in the investment pools pursuant
15 to section 35-316, subsection B to the financial or dealer community through
16 one or more of the entities listed in section 35-317, subsection A, or
17 authorized by the board of investment pursuant to section 35-311, subsection
18 ~~E~~ F, if the borrower transfers collateral to the state treasurer or acting
19 agent of the state in the form of cash or securities specified in subsection
20 A of this section. Collateral posted in the form of cash shall be in an
21 amount equal to at least one hundred per cent of the market value of the
22 loaned securities as agreed. Collateral posted in the form of securities
23 shall be in an amount of no more than one hundred ten per cent of the market
24 value of the loaned securities as established from time to time by the board
25 of investment. The loaned securities shall be valued as to market value
26 daily, and, if necessary, the borrower shall post additional collateral, as
27 agreed, to ensure that the required margin is maintained. The state
28 treasurer may collect from the borrower all dividends, interest, premiums,
29 rights and other distributions to which the tender of securities would
30 otherwise be entitled. The state treasurer may terminate the contract on not
31 less than five business days' notice, as agreed, and the borrower may
32 terminate the contract on not less than two business days' notice, as agreed.

33 D. The state treasurer shall invest operating monies in state
34 transportation board funding obligations delivered pursuant to section
35 28-7678 pursuant to the following:

36 1. The state treasurer shall liquidate investments of operating monies
37 if necessary in order to invest in state transportation board funding
38 obligations, except that if operating monies in the state general fund fall
39 below an eight hundred million dollar average over the previous twelve
40 consecutive months, the state treasurer is not required to purchase state
41 transportation board funding obligations pursuant to this subsection.

42 2. Each series of state transportation board funding obligations shall
43 bear interest at a fixed interest rate equal to the mean bid-ask price of the
44 United States treasury obligation with a maturity date closest to the
45 maturity date of the state transportation board funding obligation as

1 published most recently in the Wall Street Journal before the date the state
2 treasurer receives a certificate from the state transportation board that
3 states the board's determination to deliver an obligation to the state
4 treasurer and the anticipated delivery date of the obligation. The delivery
5 date shall be between fifteen and sixty days after the day the state
6 treasurer receives the certificate.

7 3. The state treasurer shall provide written notice to the state
8 transportation board and the director of the department of transportation
9 when the operating monies fall below four hundred million dollars. If
10 operating monies fall below two hundred million dollars, the state treasurer
11 may call the investment in the state transportation board funding obligations
12 in twenty-five million dollar increments up to the amount that the operating
13 monies are below two hundred million dollars. The state treasurer shall give
14 the state transportation board and the director of the department of
15 transportation at least fifteen days' notice of the call.

16 Sec. 3. Section 35-317, Arizona Revised Statutes, is amended to read:
17 35-317. State treasurer; duties; safekeeping of securities;
18 interest; exemptions; responsibilities

19 A. The state treasurer is responsible for the safekeeping of all
20 securities acquired by him under this article and those for which he is the
21 lawful custodian. Securities may be deposited for safekeeping with any bank
22 eligible to be the state servicing bank pursuant to section 35-315 or any
23 trust company or trust department of any bank qualified to do business in
24 this state.

25 B. The state treasurer may at the expense of the state enter into an
26 agreement with any of those entities listed in subsection A of this section
27 or authorized by section 35-311, subsection ~~E~~ F for the safekeeping and
28 handling of securities. The agreement shall be entered into under terms and
29 conditions ~~which THAT~~ secure the proper safeguarding, inventory, withdrawal
30 and handling of the securities and lending of securities to the financial or
31 dealer community pursuant to section 35-313, subsection C. Access to
32 deposits or withdrawals of the securities from any place of deposit selected
33 by the officers shall not be permitted or made except as the terms of the
34 agreement provide. The agreement need not require that securities be
35 physically located in this state, if the securities are represented by
36 safekeeping receipts issued for the account of the state treasurer by a
37 federal reserve bank or any bank located in a reserve city whose combined
38 capital and surplus on the date of the safekeeping receipt are ten million
39 dollars or more.

40 C. The state treasurer shall regularly account for, itemize and
41 inventory according to general public fund accounting practices all
42 securities coming lawfully into his possession. Such practice shall be
43 audited by the auditor general at the time of the regular audit as prescribed
44 by law.

1 D. When securities acquired under this article mature and become due
2 and payable, the state treasurer shall present them for payment according to
3 their terms and collect the monies payable on them. The monies collected
4 shall be treated as treasury monies subject to reinvestment under the
5 appropriate section of this article.

6 E. Interest and appreciation realized on any investment authorized by
7 this article shall be collected by the state treasurer and credited by him in
8 accordance with general public fund accounting practices.

9 F. All interest realized on any investment of treasury monies not
10 otherwise apportioned by law shall be credited to the general fund of this
11 state.

12 G. The investment of treasury monies as provided in this article is
13 exempt from ~~the provisions of~~ section 35-142, subsection B and sections
14 35-154, 35-181.01, 35-181.02, 35-182 through 35-185, 35-185.01, 35-185.02,
15 35-186 through 35-192, 35-192.01, 35-192.02, 35-193, 35-193.02 and 41-732.

16 H. The state treasurer is responsible for the safekeeping, management
17 and disbursement of any investment made and any interest received in
18 compliance with this article.